MOTION FILED NOV 16 1949

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1949

No. 402

JOSEPH DORSEY, MONROE DOWLING AND CALVIN HARPER,

Petitioners,

vs.

STUYVESANT TOWN CORPORATION AND METROPOLITAN LIFE INSURANCE COMPANY,

Respondents

MOTION FOR LEAVE TO FILE BRIEF and BRIEF OF AMERICAN VETERANS COMMITTEE, INC. (AVC) Amicus Curiae

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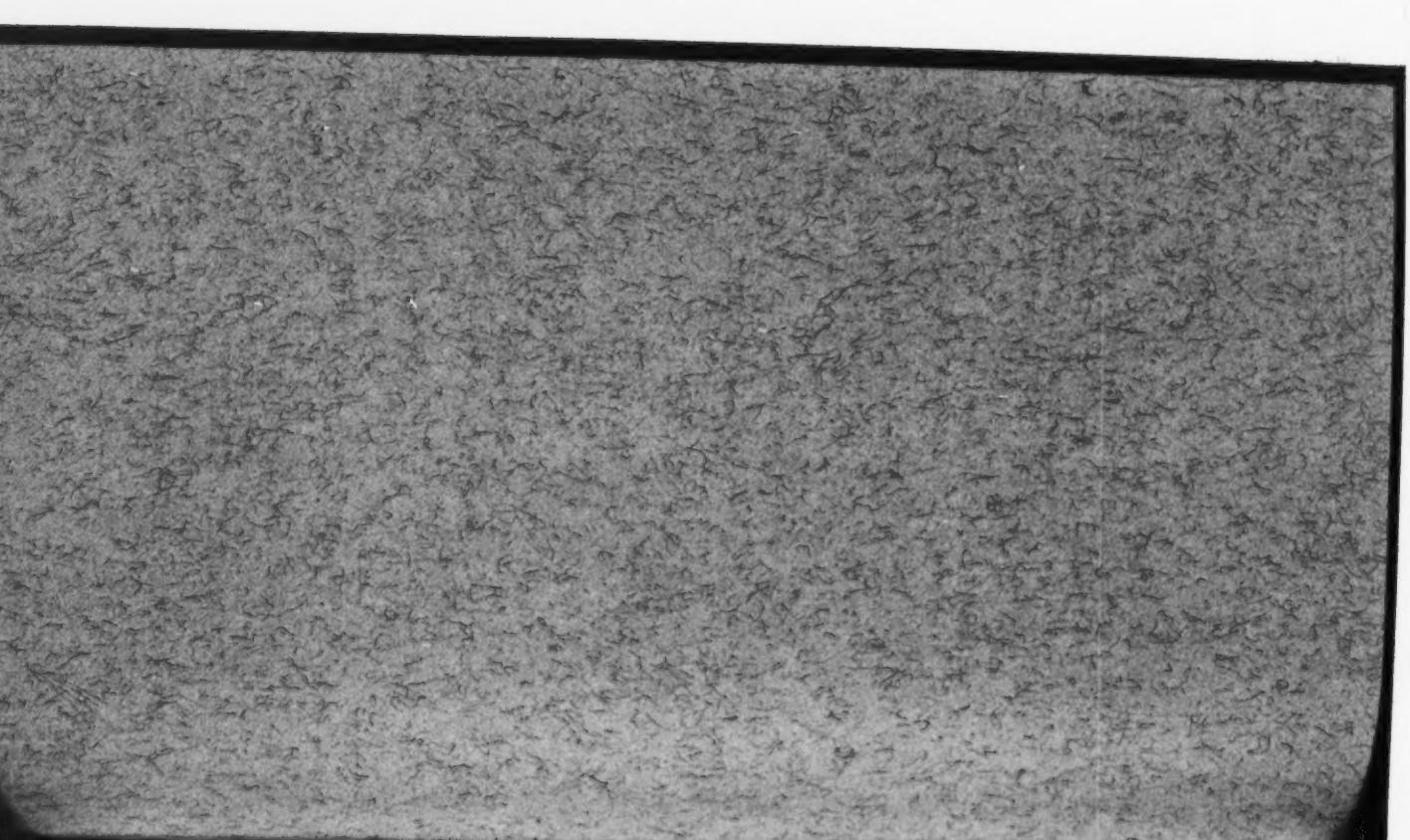
IN SUPPORT OF THE PETITION FOR WRIT OF CERTIORARI TO THE COURT OF APPEALS OF THE STATE OF NEW YORK

PHINEAS INDRITZ,
RICHARD A. SOLOMON,
Attorneys for American Veterans Committee Amicus Curiae

NOVEMBER 16, 1949,
Washington, D. C.



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DORSEY v. STUYVESANT TOWN CORP.

OCTOBER TERM, 1949

No. 402

MOTION FOR LEAVE TO FILE BRIEF
Amicus Curiae

The American Veterans Committee, Inc. (AVC) respectfully moves this Court for leave to file the annexed *amicus curiae* brief in support of the Petition for Writ of Certiorari. We have filed with the Clerk of this Court a letter from the petitioners granting consent, and a letter from the respondents refusing consent, to the filing of an *amicus* brief by AVC.

The American Veterans Committee, Inc. (AVC) is an organization of veterans of World War II who have associated themselves to promote the democratic principles for which they fought, including the elimination of racial discrimination.[1]

This case involves the validity of racial discrimination in the selection of tenants in Stuyvesant Town, a housing project constructed and operated by the respondents in

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[1] AVC's *amicus curiae* briefs in the following recent civil rights cases before this Court are illustrative of AVC's views: *Shelley* v. *Kraemer*, 334 U. S. 1 (1948); *Hurd* v. *Hodge*, 334 U. S. 24 (1948); *Takahashi* v. *Fish and Game Commission*, 334 U. S. 410 (1948); *United States* v. *C. I. O.*, 335 U. S. 106 (1948); *Stainback* v. *Mo Hock Ke Lok Po*, 336 U. S. 368 (1949); and the pending cases of *Sweatt* v. *Painter*, No. 44, and *Henderson* v. *United States, et al*, No. 25 (both Oct. Term, 1949).

cooperation with the City of New York under the authority of the New York State Redevelopment Companies Law (N. Y. Laws, 1942, ch. 845, as amended; L. 1943, ch. 234; L. 1947, ch. 840; McKinney's Unconsol. L. §§ 3401-3426).

AVC believes (1) that the racial discrimination in this case is incompatible with our democratic faith, is inimical to the welfare of the United States, and is violative of the Federal Constitution; and (2) that this case raises substantial Federal questions which are of such general importance that this Court should grant the petition for writ of certiorari and consider and decide them.

AMERICAN VETERANS COMMITTEE, INC. (AVC)
By: PHINEAS INDRITZ,
RICHARD A. SOLOMON

BRIEF OF AMERICAN VETERANS COMMITTEE (AVC) Amicus Curiae

Preliminary Statement. Stuyvesant Town covers a tract of 18 blocks in the heart of New York City, containing 35 buildings with 8759 apartments housing some 25,000 people. In 1943 the area was a slum housing some 10,000 people. Under a contract with the respondents, the City of New York evicted these residents, assembled the land by condemnation, closed off all public streets and conveyed all the land within the area to Stuyvesant Town Corporation, agreed to zone the area to facilitate operation of the project, and agreed to exempt project improvements from taxation for 25 years, an exemption equivalent to a grant of $50,000,000. The respondents thereupon built Stuyvesant Town as a low-rent housing project subject to special governmental control over the rents, profits, dividends, use, disposition and other aspects of the project.

The petitioners are veterans of World War II honorably discharged from the United States Armed Forces. Their applications for apartments in Stuyvesant Town have not been accepted solely because they are Negroes.

The basic legal question in this case is whether the large measure of governmental participation in the construction and operation of Stuyvesant Town, when joined with the racially discriminatory practice of the respondents in the selection of tenants, results in violation of the Fourteenth Amendment. That question is roundly discussed in the majority and dissenting opinions of the New York Court of Appeals which upheld the respondents' practice by a 4-3 decision [*Dorsey* v. *Stuyvesant Town Corp.*, 299 N. Y. 512, 87 N. E. (2d) 541 (1949)]; and in the petition for certiorari filed in this Court in which AVC concurs. This *amicus* brief is directed solely to those aspects which are of particular importance to veterans and to the successful rehabilitation of urban slums.

I. THE ISSUES RAISED IN THIS CASE ARE OF GREAT IMPORTANCE TO VETERANS AND TO THE PROGRESS OF URBAN REDEVELOPMENT AND SHOULD BE DECIDED BY THIS COURT.

A. Veterans have special need for new low-rent housing on a non-discriminatory basis

Both Negroes and whites served with distinction in the armed forces of the United States during World War II.[2]

[2] *Army Service Forces Manual* M-5, "Leadership and the Negro Soldier" (Oct. 1944), pp. 9, 10, 23, 74-95; *To Secure These Rights*, Report of President's Committee on Civil Rights, pp. 83-84 (Govt. Print. Off., Oct. 29, 1947). Before voluntary enlistments were stopped in World War II, Negroes had volunteered for military service in ratios far exceeding their ratio in the nation's population. *Army Service Forces Manual* M-5, *supra*, p. 5. Inquiry from the Veterans Administration indicates that over 1,275,000 veterans of World War II are non-white.

An inevitable byproduct of such service was a general dislocation in housing accommodations of veterans' families which has been rendered particularly acute by the general post-war housing shortage.

The housing needs of Negroes, and particularly Negro veterans, are abnormally critical. Surveys conducted by the U. S. Census Bureau and the Bureau of Labor Statistics from July 1946 through March 1947 have vividly revealed the serious housing needs of World War II veterans. *The Housing of Negro Veterans,* (Housing and Home Finance Agency, Wash., D. C., January, 1948).

In the 24 areas where separate statistics were taken for white and Negro veterans, 55% of all married Negro veterans, as compared to 33% of all married white veterans, were living either "doubled up" with their parents or other families, or in sub-standard "stop-gap" shelter such as rented rooms, trailers, and tourist cabins (p. 37). Moreover, in these areas, 37% of the Negro veterans, as compared to 14% of the white veterans, lived in dwellings requiring major repairs, or lacking one or more standard plumbing facilities such as private bath or toilet (p. 38). The solution to the Negro veterans' housing problem is further complicated by the fact that Negro veterans are able to pay substantially less rental for improved housing accommodations. The surveys revealed that in the south, white veterans could pay a median monthly rental of $46 as compared to $31 by Negro veterans; and in the north, although the median monthly rental which all veterans could pay was $45, Negro veterans could pay only $39 (p. 22). Furthermore, at the time of the surveys, only one-third as many habitable and vacant privately financed dwelling units were offered for rent or sale to Negroes as to whites (p. 28).

Thus, the Negro veteran, more than any other group, must look to new low-rent housing to solve his acute housing needs.

Congress has recognized the critical housing need of veterans and has enacted a series of statutes designed to make available adequate housing for veterans and their families. Thus, the Veterans Emergency Housing Act of May 22, 1946 (60 Stat. 207) expressly recognized the "unprecedented emergency shortage of housing, particularly for veterans of World War II and their families", and set up an allocation and priorities program to assure to *all* veterans of World War II a preference in purchasing *or renting* newly constructed housing.

Because of the continuing need of veterans for adequate housing, Congress has periodically continued and expanded this priority. Housing and Rent Act of June 30, 1947, sec. 4 (61 Stat. 193, 195), as amended by the act of Feb. 27, 1948 (62 Stat. 37); the act of March 30, 1948 (62 Stat. 93, 50 U. S. C., App., 1946 Ed., Supp. II, sec. 1884); and the act of March 30, 1949 (Pub. L. 31, 81st Cong.); and the Housing Act of July 15, 1949, secs 301, 302, 507 (Pub. L. 171, 81st Cong.). Under this legislation, veterans of World War II are entitled to priority in purchasing and renting housing accommodations, including those in Stuyvesant Town and other redevelopment projects. All of these statutes, as well as the Servicemen's Readjustment Act of June 22, 1944, as amended (38 U. S. C., 1946 Ed., secs. 693-697g) (the G.I. Bill of Rights) which authorizes the Veterans Administration to guarantee up to 50% of $4,000 borrowed by veterans of World War II for the purchase, construction, or improvement of a home, were enacted to assist "any" "veteran of World War II" who was not dishonorably discharged. Congress did not exclude Negro veterans from the benefit of these acts, and made no distinctions as to the race or color of the veterans who could secure these benefits.

Government-aided redevelopment projects, such as Stuyvesant Town, offer one of the best opportunities for meet-

ing the housing requirements of the Negro veteran as well as other Negro families. Their fixed low rents are made possible primarily through the subsidy of tax exemptions, cession of publicly owned land, condemnation proceedings to assemble private land and in some cases to shift to the whole community the cost of excessive land values obstructing new low-rent housing, and other governmental aid. Without such government aid, Stuyvesant Town and most other similar redevelopment projects could not be built. But arbitrary racial restrictions upon the selection of tenants, such as is imposed by the respondents, effectively block access by Negroes and Negro veterans to this important area of new low-rent housing, and effectively frustrate the policy of Congress that veterans' benefits be on a non-discriminatory basis.

B. Racial discrimination obstructs the purpose and progress of urban redevelopment

The problem raised by the respondents' practice of racial exclusion in operating a housing project intimately linked with government power and aid is not limited to Stuyvesant Town. Slum clearance and urban redevelopment are no longer isolated or purely private undertakings. They are now an integral part of our national and state housing policy and plans for the rebuilding of much of our urban areas. Thus, the Federal Government, 25 states, and the Territory of Puerto Rico have already enacted legislation to aid the financing and development of low-rent housing projects and to establish redevelopment authorities and private redevelopment corporations utilizing governmental powers to help build such housing. See Housing Act of July 15, 1949 (Pub. L. 171, 81st Cong.) and the acts cited in ftnt. 6, pp. 23-24, Petition for Writ of Certiorari in this case. The rebuilding of the blighted centers and other slum

areas in many of our cities under such statutes will greatly increase during the next decade.

Many of the most blighted urban areas throughout the country are occupied predominantly by Negroes. This is largely attributable to the comparatively lower income of Negroes and the cumulative effect of the enforcement of racial restrictive covenants prior to this Court's decision that such covenants are not judicially enforceable. *Shelley* v. *Kraemer*, 334 U. S. 1 (1948); *Hurd* v. *Hodge*, 334 U. S. 24 (1948). The baneful effects which slum housing and residential racial segregation have upon the economic, social and moral life and health, not only of Negroes, but also of the entire community, were comprehensively briefed for this Court in the Restrictive Covenant Cases. See *Consolidated Brief for Petitioners* in *Hurd* v. *Hodge*, *supra* (Nos. 290 and 291, Oct. Term, 1947), pp. 40-98 and Charts 1-13; *Brief for Petitioners* in *McGhee* v. *Sipes* (No. 87, Oct. Term, 1947), pp. 50-83. If the practice of racial exclusion at Stuyvesant Town is upheld, much of the benefit of the State and Federal programs for urban redevelopment will, solely because of race, be denied to a substantial number of the citizens for whose benefit those programs of urban redevelopment were intended.

Moreover, discriminatory rental practices such as those adopted by the respondents in Stuyvesant Town result in substantially obstructing the progress of urban redevelopment. Rehabilitation of slum areas requires destruction of the existing properties and the rehousing of the dispossessed inhabitants. The Stuyvesant Town pattern of racial discrimination means that Negroes and other minority groups, although they participate in bearing the tax costs of the project, will be evicted from their homes and pushed into other congested and blighted ghetto slums already occupied by persons of their race or into the cast off houses vacated by white citizens who are allowed to participate

in the fruits of urban redevelopment. Hence, minority groups, particularly Negroes, have manifested widespread opposition to slum clearance under urban redevelopment. Vivid examples of such opposition are (a) the determined resistance by many Negroes in the District of Columbia against the redevelopment of the Marshall Heights slum largely because of their fear that the redevelopment plans proposed by the National Capital Park and Planning Commission will force Negroes into isolated ghettoes, and (b) the resistance by Negroes in Chicago against the land assembly program of the Chicago Land Clearance Commission for the proposed housing redevelopment on Chicago's south side by the New York Life Insurance Company. The invalidation of Stuyvesant Town's discriminatory practice will thus aid the progress of slum clearance by securing the cooperation of numerous people who now vigorously oppose such urban redevelopment.

Respectfully submitted,

AMERICAN VETERANS COMMITTEE, INC. (AVC),
Amicus Curiae,

PHINEAS INDRITZ,
RICHARD A. SOLOMON,
Attorneys for American Veterans Committee,
Amicus Curiae.

November 16, 1949,
Washington, D. C.